

APPROVED: Meeting No. 44-95

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 33-95

June 26, 1995

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on June 26, 1995, at 7:37 p.m.

PRESENT

Mayor James F. Coyle

Councilmember Robert E. Dorsey

Councilmember James T. Marrinan

Councilmember Rose G. Krasnow

ABSENT

Councilmember Nina A. Weisbroth
(Maternity Leave)

In attendance: Acting City Manager Rick Kuckkahn, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: City Manager's Report

1. The City's July 4th Independence Day celebration will take place at Richard Montgomery High School. Stage entertainment begins at 6:30 p.m. with fireworks beginning at 9:30 p.m. WASH 97.1 Radio will simulcast the musical entertainment of the celebration.

2. The City is accepting registrations for the 10th Rotary Twilight Runfest on July 15 to be held in Town Center. This very popular race attracts crowds in excess of 4,000 annually. Proceeds from the race benefit the Rockville Rotary Youth Scholarship Fund. This year's festival will be held at Middle Lane site and the race was redirected due to the construction in Courthouse Square.

3. For the second time, the City has been awarded the Maryland State Arts Council Grant, for Fiscal Year 1996 in the amount of \$25,000. The grant supports ongoing arts programs and arts organizations in Rockville.

4. Mr. Kuckkahn congratulated the Lincoln Park community on its 104th anniversary celebration and he thanked the neighborhood for recognizing the City's Police Department. He also expressed appreciation to Lincoln Park residents for having one of Rockville's finest neighborhoods.

5. Candidate/Campaign Information Packages for the 1995 City election are available can be picked up from the City Clerk's Office.

Mayor Coyle announced the birth of Councilmember Weisbroth's fourth son, born on June 25th.

Re: Presentation of check to the City of Rockville, in the amount of \$37,000 from Rockville Seniors, Inc. representing RSI's annual contribution to the City.

Bob Mentzer, Chairman of Rockville Seniors, Inc. presented the check which represents RSI's annual contribution to the City. Mr. Mentzer was accompanied by RSI's current and incoming Board of Directors. Mr. Mentzer noted that RSI had established a Memorial Book and was also implementing a gift giving campaign for persons wishing to make financial donations to the Senior Center.

Re: Presentation of Certificate of Appreciation to Elie Asaraf. Mr. Asaraf is the proprietor of Chez Elie, a Rockville Hair Salon.

Mayor Coyle said that on February 8, 1995, the Seven Locks Barbershop was gutted by a fire leaving the proprietor Bill Stayeas and his staff with no income.

Mr. Asaraf loaned the use of his own shop space to Mr. Stayeas and his twelve employees, allowing him to save 90% of his business. As a token of his own appreciation, Mr. Asaraf presented a check in the amount of \$500 to the Rockville Seniors, Inc., and he explained why he was appreciative as well. He said that being able to reach out to Mr. Stayeas saved his life and his business as well because in January, Mr. Asaraf suffered a heart attack and because of his illness, he risked losing his life as well as his business.

Re: Special Presentation

The Mayor and Council presented Ramney Lachian, Head Instructor of Rockville's World Karate Masters, with a City of Rockville flag. Senator Jennie Forehand presented the group with a Maryland State flag as well. The Team will represent the City of Rockville and the State of Maryland at the Junior Olympics in Los Angeles, California.

Re: Presentation of Legislative
Report by Senator Jennie
Forehand, and District 17
Delegation, Michael Gordon,
Kumar Barve, and Cheryl
Kagan.

Delegate Mike Gordon reported that the Delegation made many accomplishments at the Legislature this year. They were able to clarify a provision giving local governments the authority to divide property taxes between buildings and properties. It was discovered, however, that cities in Maryland have had this power since 1916. Mr. Gordon announced that he was elected as the Vice Chairman of the Economic Matters Committee, Chair of the Subcommittee on Employment and Insurance; and he served with Del. Kumar Barve, this year's Delegation Chairman. Senator Forehand was elected as Vice Chairman of the Senate Delegation and Cheryl Kagan served on the committee

dealing with municipal legislation. Mr. Gordon said he was in charge of a work group that will develop legislation to create a neighborhood redevelopment business fund to provide gap financing for neighborhood stores that have trouble meeting private sector requirements for financing renovations.

Delegate Barve agreed that the Delegates had a very successful legislative session. As Chair of the Delegation, he represents the interest of the entire County. He said it was easy to do a good job as Chairman because he had the support of his fellow Delegates. Overall, Montgomery County received a \$21.8 million increase from the State operating budget (an 11.7 percent increase over the previous year). This was significant as the average increase received by other jurisdictions in the State was 6.6 percent. He noted the following successes:

- \$12.6 million in education aid (a 20 percent increase);
- \$1.5 million in ESOL funding (74 percent increase);
- Program Open Space increased by \$912,000;
- \$5.5 million for replacing 22 Ride-On busses. They were also able to pass legislation which provided an additional \$1.8 million for para-transit, giving the County the resources to serve physically disabled citizens' transportation needs.
- \$9.53 million for the University of Maryland's Center for Advanced Research and Biotechnology.
- In the area of capital construction, Mr. Barve said the County received \$20 million for school construction. Mr. Barve said he introduced and passed the landmark Patient Access Act which for the first time, requires an HMO to offer to its members the option of going to a physician outside of the HMO network if the person is willing to pay a slight increase. In addition, a practice that HMOs

engaged in for many years was stopped. HMOs have been discouraging, by withholding some of the fee normally paid to the physician, your physician from referring you to a specialist or getting needed tests. Mr. Barve also pointed out that changes were made to ensure the continuity of health care. Often people undergoing medical care find their physician was dropped from the HMO network. Persons currently being treated for an ailment when their physician is dropped from the network, have the right to continue to see that physician/health care provider for 90 days and the HMO has to pay for this. Mr. Barve noted that as Vice Chairman of the Economic Matters Committee, Del. Gordon, was instrumental in passing this bill.

Delegate Cheryl Kagan reported on her first session in Annapolis. She noted that the Delegation was effective in bringing home the final \$2 million for Rockville Town Center, a bill she sponsored along with Delegates Gordon and Barve with Senator Forehand's sponsorship in the Senate. Due to the City's effectiveness in the lobbying effort and the reputation built over the last several years, the \$2 million was incorporated into Governor Glendening's budget without any problems. Ms. Kagan said that she was appointed to the Commerce and Government Matters Committee which handles all transportation, procurement, anti-discrimination, campaign finance and lobbying, and ethics reform, as well as all municipal and local government issues. One of the more important priorities her committee was able to get passed was Eminent Domain. If there are blighted areas not being cared for or abandoned, the City after prescribed procedures can move in to work towards improvement of the area. She noted her own successes:

- prohibiting the dark tinted license plate covers;
- working with the University of Maryland Board of Regents, students will no longer

have to pay \$720 more per year to take the same curriculum at the Shady Grove Road Campus as a student would if they traveled to the College Park Campus.

- She will be working with Delegates Gordon, Barve and Senator Forehand in continuing work on the Condo Owners Bill of Rights that she introduced this year.
- She was pleased to be appointed by the Speaker to the Maryland Arts Council. Only one delegate and one Senator are selected to serve on the Council, and Ms. Kagan noted that she was succeeding a delegate who had served on the Council for over 20 years.

Senator Jennie Forehand encouraged Rockville arts groups to make greater efforts to request grants available to them, and she noted that the Delegation would be happy to work with such groups in applying for the grants. She said that her Committee on Judicial Proceedings dealt with issues such as domestic violence, transportation, child sex offenders, drunk driving, weapons in schools, and consumer protection. Ms. Forehand said she was particularly interested in the proposal for a new conference center to serve the Rockville area, and she was assured that site selection was being carried out in a non-political manner. She reported on the following:

- Maryland still has its Triple A bond rating; one of only five states with this rating. Maryland is 28th in the nation for having a high personal income tax rate (not fifth as some reports show);
- A bill requiring that newborns and their moms have at least a 48 hour hospital stay;
- Children riding bikes will now have to wear helmets;
- The smoking ban is working well
- Emissions testing reform for cleaner air - If attainment goals are not met, the

State could lose a half-billion dollars a year in federal highway and mass transit aid.

- Additional classes will be available at Montgomery College Shady Grove Road. Shady Grove Hospital received funds for upgrading and establishing a pediatric care intensive unit.
- Transportation issues coming on line soon are the Route 28 realignment and construction on the Route 270 spur; both projects are scheduled for completion in Fall 1996;

Senator Forehand said it has been a pleasure working with Governor Glendening who has been to Rockville a number of times and knows and understands the City's concerns. Ms. Forehand suggested that the Mayor and Council conduct a survey to see what changes residents would like to see in the State legislature. Ms. Forehand also said that the Delegation has Issues Papers they would be glad to share with the City should additional information be requested.

Delegate Gordon noted that the Delegation was proud that Senator Forehand was named as President of The Women's Caucus. Ms. Kagan added that County Executive Doug Duncan was also a hard working presence in Annapolis working with the County delegation.

Following questions from the Mayor and Council, the Delegation was asked to follow up on:

- (a) Projecting ahead to next year, what the Federal Government's plans are regarding social issues and health care, and what the impact will be on the State, County and municipalities. Also, what the State's limitations will be regarding social and health care issues.

- (b) A progress report on the site selection process for the conference center.
- (c) Councilmember Dorsey asked if future reports from the Delegations could include some graphic presentations.
- (d) Mayor Coyle noted that Rockville had been recognized as a leader in the area of the Americans With Disabilities Act, and he suggested that if the State was looking for good examples, City staff could be available.

Delegate Gordon asked that the Mayor and Council identify Rockville neighborhoods that are appropriate to use as gap-financing. He also noted that there was a grant program for police departments to apply for body armor. The Delegation noted a phone number, 858-3000, that residents could call to follow-up on issues for the Delegates. Residents were also encouraged to call 858-3810 to obtain legislative information.

Re: Presentation of Planning
Commission Annual Report

Chairperson Jerome Loux presented the 1994 Annual Report of the Planning Commission. He said that Past Chair David Melnick had done an excellent job. He noted that 1995 had been an active year in terms of the number of Residential Town House applications, annexations and use permit applications filed, and he said that this was a good sign for the City. He said he was positive that Rockville was moving forward and showed a great deal of growth activity and a vibrant economy and will survive tough economic tests. He noted changes in Town Center, changes along Rockville Pike and other growth through modernization, and he said that these have all been positive.

Re: Presentation of six finalists' proposals for Courthouse Square Park artwork.

Award to Dan Davidson, for his female figure/fountain design, in the amount of \$175,000.

Six finalists were selected from among 183 interested artists for the Art In Public Places project. Cultural Arts Commission Chairperson, Charles Goldstein and AIPP Chairperson George Northway presented the works of the finalists. The award to Mr. Davidson was recommended by the Cultural Arts Commission. Mr. Goldstein provided a brief background on the competition process.

Councilmember Krasnow noted that the final vote of the CAC was 6 in favor of the Davidson and 3 in favor of the Mendez sculpture. There was some question as to what was being recommended; the Davidson sculpture in itself or the Davidson sculpture with a final design to be worked out for the Mayor and Council's final approval. The Mayor and Council discussed the selection at length and offered the following comments:

- (a) Councilmember Marrinan said that the inscription on the manuscript the sculpture held should include participation by the youth of Rockville. Mr. Marrinan said he liked the Davidson piece; however his inclination was towards the Kirkland piece. He was also concerned about the final modifications to the Davidson statute.
- (b) Councilmember Dorsey said he attempted to keep up with the technical aspects as the project evolved. However, he said he felt he should try to emulate how the average citizen felt who did not have the benefit of all the background discussion. He said he liked the Mendez design because it

incorporated statutes of children and allowed more of a participatory nature for persons visiting the statute, although he said he had no comments, pro or con about the Davidson work.

- (c) Mayor Coyle asked if the Mayor and Council were on a time schedule to make the final decision. He noted Councilmember Weisbroth's absence and said he would like Ms. Weisbroth to be able to contribute her viewpoint. Mayor Coyle also said he was not opposed to the Davidson piece; however he, like Councilmember Dorsey, liked the concept of incorporating children in the sculpture.
- (d) In an opposing view, Councilmember Krasnow said she hoped the Mayor and Council could bring the matter to a closure this week; although, she too, would like to have Ms. Weisbroth's input. Ms. Krasnow said she was comfortable supporting the CAC's recommendation because when the project was started, the base of the sculpture had already been proscribed by the Architect which somewhat limited the designs they were going to get. She said it was clear in the beginning that the City wanted a fountain and Mr. Davidson was the only artist who actually designed one. Ms. Krasnow also said she felt Mr. Davidson took into consideration the requirements about attracting persons to the sculpture at night and the issue of verticality in relationship to the height of the Red Brick Courthouse and the taller buildings proposed for downtown. She said while the Kirkland statute was stunning, it had problems in terms of vandalism, maintenance costs and the possibility of someone injuring themselves on the sculpture.

Mark Troen, Vice President, Rockville Center, Inc. said there were time constraints within the larger project as RCI was proceeding with the development of the park which should be completed in the Fall. The completed park included the base for the fountain and sculpture. He noted that if the Mayor and Council approved the project this evening, there would still be 9-12 months before final design, fabrication, and installation took place. He concluded that time was always of the essence and there was a benefit to moving forward. However, noting the Mayor and Council's concerns, he said it was also important that everyone work cooperatively so the final design meets everyone's objectives for a beautiful fountain.

Bill Helmuth, Architect said the issue had to do with the type of park this would be and what the sculpture meant for downtown Rockville. He said not just a sculpture was being chosen; but a center point to a park that would be inviting for the citizens of Rockville and one that would anchor one end of the four blocks of the downtown area. He said the issues surrounding the Mendez design dealing with height and use of water in the fountain did not touch on these in the urban design sense as the Davidson piece did.

Upon motion of Councilmember Marrinan, duly seconded and passed by a 3 to 1 vote (Councilmember Krasnow voted "nay"), the decision was made to hold over a decision on the recommendation until the Mayor and Council's July 10 General Session. The Mayor and Council expressed appreciation to everyone for their hard work.

Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. Alice Kelly, 401 W. Montgomery Avenue, representing the Historic District Commission on the Art Selection Committee, said that the Mendez sculpture was lovely; however concerns were expressed about children playing in the fountain, and in the wintertime, possibly injuring themselves. She also said that the lighting of the statute was also an issue and she suggested that the City provide funds to place the Mendez sculpture elsewhere in the City.

2. Heidi Hughes polled the Mayor and Council, the Acting City Manager, City Attorney, and the City Clerk and asked if they were members of Peerless Rockville and if they had received letters from Peerless Rockville soliciting donations. She then read a letter that she had earlier submitted to the Acting City Manager, expressing her objection to the City making a financial loan to Peerless Rockville. Ms. Hughes said that her letter was not made part of the public record on the budget issue.

3. Brigitta Mullican, President, Sister City Corporation announced that the Pinneberg Pirates Baseball Team will visit Rockville, July 22 - August 5, 1995. She said that twenty-two players, ages 18 to 24 will stay with families in the community while they attended a training camp, and she expressed appreciation to Public Information Office Don Vandrey and the City's Recreation and Parks Department for helping to set up the visit. She invited the Mayor and Council to attend the Team's practices and scrimmages and she said that the Sister City Night would take place on July 30 at Dogwood Park.

Re: Consent Agenda

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- (A) Award of Bid #86-95
To: Russell Roberts Company
Of: Gaithersburg, MD
In the amount of: \$34,670

For: Rebuilding the No. 8 Green
Complex at Redgate Golf Course.

- (B) Award of Bid #90-95
To: R&R Uniforms, Inc.
Of: Richmond, VA
In the amount of: \$13,735.50

For: Police uniforms for the period
7/1/95 through 6/30/96, with an
additional one year option in the amount
of \$14,144.55.

- (C) Approval of Requirements Contracts for
Electrical Services (Option Year II),
with Adjusted Spending Ceilings.

To: Kolb Electric of Washington, D.C.
and Electric Advantage of Rockville,
MD.

In the amount of:
\$30,000 - Kolb Electric
\$65,000 - Electric Advantage

For: Electrical Maintenance Services
for City Facilities.

- (D) Introduction of Ordinance to Grant Text
Amendment Application TXT95-0146,
Rock Creek Associates B, et al., c/o
Miller, Miller & Canby, Applicant.

To amend the Zoning Ordinance to
create a new Office/Research and
Development Zone (I-5).

Re: Adoption of Resolution to
Approve Exploratory Application
for Residential Townhouse
Development RTH95-0015, GB
Builders, Inc.

For 31 residential town houses at
2291 Baltimore Road.

The Mayor and Council agreed that the development was excellent;
however, the following traffic-related issues were noted:

- (a) GB Builders & Developers will work with the Beth Tikva Synagogue to help them expand their on-site parking.
- (b) While the developer will make improvements to allow a right-hand turning lane into the development, the Planning Commission and staff were asked to look into other street improvements to address the left-hand turning issue at Twinbrook and Baltimore Road. Ms. Rother confirmed that during the Detailed Application Stage, site distance checks will be done in both directions to ensure that they were appropriate for turning movements.
- (d) Staff to look into some type of traffic device at the Baltimore Road Bridge, which is located in the County. Mr. Kuckkahn noted that this can be followed up in conjunction with the CIP process.
- (e) The Mayor and Council would like staff to follow through on this particular development as a case to study the standard traffic methodology process, i.e., whether 100 vehicle trips per hour is too high, or whether there are areas that need to be designated for additional traffic controls.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Resolution for Exploratory Application RTH95-0015 was adopted. A copy of

the Resolution may be found in Resolution Book No. 11 of the Mayor and Council.

Re: Introduction and Adoption of Ordinance to amend Chapter 8 of the Rockville City Code entitled "Elections" so as to amend the provisions relating to authority line requirements for campaign literature and to make other technical amendments.

Ordinance No. 7-95

Maury Ward, Chairperson of the Board of Supervisors of Elections, said that the Board had discussed with the City Attorney the proposed Ordinance that would exempt individuals independently producing, publishing, or distributing campaign material pertaining to a principle or proposition submitted to a vote at any City election from certain requirements that authority lines or other identifying information appear on campaign material, and to clarify the penalty for failing to file election reports and statements. Mr. Glasgow added that the Ordinance would also correct an oversight in the amendment to the Election Ordinance adopted on 5/22/95. The correction pertains to Section 8-83 and clarifies that reporting requirements are municipal infractions and not misdemeanors.

Mr. Ward noted that both the Ordinance and the proposed Resolution establishing fines for violations of Chapter 8 had the full support of the Board of Elections.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Ordinance was introduced. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the layover period was waived. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Ordinance was

adopted. A copy of the Ordinance may be found in Ordinance Book No. 18 of the Mayor and Council.

Re: Adoption of Resolution to
establish fines for violations of
Chapter 8 of the Rockville City
Code entitled "Elections."

Resolution No. 11-95

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Resolution establishing fines for violations of Chapter 8 of the Election Code, was adopted. A copy of the Resolution may be found in Resolution Book No. 11 of the Mayor and Council.

Re: Discussion and Instructions to
Staff regarding regulations for
vendor carts in Courthouse
Square Park.

Regulations governing these carts
were established last fall and
may warrant review at this time.

Chief of Inspection Services Linda MacDermid said that discussions were held between staff and persons in the business community interested in the idea of vending in Town Center. As a result, seven criteria were recommended as requirements for vending in Town Center. The Mayor and Council directed staff to inform the Rockville Center, Inc., the Rockville Chamber of Commerce, and the Town Center Business Association, about the new regulation. Staff should also study what other jurisdictions do and also take a look at other locations in the City where the regulation could also apply.

Re: FYI/Correspondence

Councilmember Dorsey noted that the City will again receive funding from the Montgomery County Private Industry Council to operate a summer youth employment program.

Re: New Business

1. Councilmember Krasnow referenced a letter the Mayor and Council received from the Rockville Librarian, expressing concern about city employees who parked in the Library lot creating a lack of parking for Library patrons. Ms. Krasnow noted that parking at City Hall was often full as well and she suggested that the Mayor and Council consider options for alleviating the parking situation.

2. Councilmember Marrinan commented on the successful 104th anniversary celebration of the Lincoln Park community, held on June 24.

Re: Adjournment to Executive Session.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, with Mayor Coyle, Councilmembers Dorsey, Krasnow, and Marrinan voting "aye," the Mayor and Council adjourned at 10:43 p.m. to reconvene immediately in Executive Session, pursuant to Section 10-508(a)(7) of the State Government Article, Annotated Code of Maryland to obtain legal advice from counsel.